



Consumer Grievance Redressal Forum, Kalyan Zone  
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**EE/CGRF/Kalyan/**

Date of registration: 02/08/2017

Date of order : 25/09/2017

Total days : 55

**IN THE MATTER OF GRIEVANCE NO. K/E/1243/1467 OF 2017-2018 OF SHRI B. MOHAN PANIKAR, C/O. STAR TYRE SERVICE, OPP. SUCHAK PAPER, NETIVLI, KALYAN (E), PIN 421 306. REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT BILLING DISPUTE.**

Shri B.Mohan Panikar,  
C/o. Star Tyre Service,  
Opp. Suchak Paper,  
Netivli,

Kalyan (E), Pin -421306

(Consumer No.020155009595/0)

... (Hereinafter referred as Consumer)

V/s.

Maharashtra State Electricity Distribution  
Company Limited

Through it's Nodal Officer/Addl.EE.

Kalyan Circle-I,

... (Hereinafter referred as Licensee)

Appearance : For Licensee - Shri S.V.Gawali-Addl.EE-Kalyan (E) S/dn-I.

For Consumer – Shri B.R.Mantri - CR.

[Coram- Shri A.M.Garde-Chairperson, Shri A.P. Deshmukh-Member Secretary  
Mrs.S.A.Jamdar- Member (CPO)].

1] Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum &

Ombudsman) Regulation 2006” to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as ‘Regulation’. Further the regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission. Hereinafter referred as ‘Supply Code’ for the sake of brevity. Even, regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.’ Hereinafter referred ‘SOP’ for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014’.

2] Case in brief is that, the consumer Shri B. Mohan Panikar, bearing consumer No020155009595/0 was given power supply in the year 2003 for the purpose of tyre remolding business. It fell in the category of Industry for the purpose of tariff as such was charged accordingly. It so happened that w.e.from 1/8/2012 the category of tyre remolding was changed from industrial to commercial by MERC. However, the change was not effected by MSEDCL in case of this consumer and he was continued to be charged for Industrial category as before.

3] On 5/12/2015, there was flying squad inspection at the unit of consumer and thereupon from January 2016, the consumer was charged under commercial category under new categorization done. MSEDCL also raised retrospective bill from 1/8/2012 to December 2015. Consumer challenges this action of MSEDCL on the ground that procedure prescribed for categorization is not followed.

4] MSEDCL filed reply on 11/9/2017. The Licensee in the reply confirms that upon proposal from flying squad inspection report dated 5/12/2015 tariff was changed from Industrial to commercial vide DVS No.20797 dated

5/12/2015. Accordingly, bill was issued for the period from August 2012 to December 2015 for Rs.1,76,261.26.

5] We have heard both sides. The ground taken by the consumer that MSEDCL has not followed the prescribed procedure for changing the tariff category of the consumer is not available to the consumer at all. MSEDCL has not changed the category nor it is within its jurisdiction or power. It is MERC who does the categorization or effect the change therein. MERC in this case had already changed the category of consumer from Industrial to Commercial w.e.f 1/8/2012, but MSEDCL had not given effect to it till December 2015. In December 2015 there was flying squad inspection and report was given in which the change of category was proposed. In fact only a mistake of the MSEDCL in complying the tariff was detected in as much as the consumer was continued to be charged under Industrial Tariff despite change of tariff category to commercial w.e.f. 1/8/2012 . This being so charging of consumer for commercial tariff from the date of detection is as per MERC tariff order and is legal and valid.

6] The second question is about retrospective charging of consumer before detection and addition of the arrears in the bill for billing month of July 2017. There are several Judgments filed which we have gone through.

7] There is however, one case of APTEL, Appeal No. 131/2013 cited. In that case consumer Vianney Enterprises was doing the activity of filling and packaging oil. It did not fall in the industrial category (LTIV) because there was no manufacturing activity. But right from inception in 2002 and increase of loads in 2003 and 2007 the consumer therein was being categorized as Industry. Then there was tariff revision on 1/12/2007. Even thereafter the consumer was charged as industrial. Licensee realized the mistake and just as in the present case on the basis a flying squad report raised a bill for arrears right from September 2002 when the supply was given. The Appellate Tribunal held that

arrears claimed from the date of detection of error was correct and not the retrospective arrears. .

8] This case of the Appellate Tribunal squarely applies to the facts of the present case. Then there are other similar orders of Hon'ble Ombudsman in case No.124 to 126/2014.

9] Thus, so-far-as the retrospective recovery is concerned the said addition made in the bill for the said period is liable to be quashed.

Hence the order.

### **ORDER**

1] Grievance application of consumer is hereby partly allowed.

2] The addition of Rs. 1,76,261.26 made in the billing month of July 2017 as difference due to wrong application of tariff for the period from August 2012 to December 2015 is hereby quashed and set aside.

3] The Licensee is directed to refund above said amount to consumer along with interest at RBI rate from the date of recovery till refund / adjustment

4] The prospective recovery made under commercial tariff from 1<sup>st</sup> January 2016 is upheld.

5] Compliance be made within 45 days and report be made within 60 days from the date of receipt of this order.

Date: 25/9/2017.

(Mrs.S.A.Jamdar)  
Member  
CGRF, Kalyan

(A.P.Deshmukh)  
Member Secretary  
CGRF, Kalyan.

(A.M.Garde)  
Chairperson  
CGRF, Kalyan.

a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.

*“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.*

- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or
- c) delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-  
“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”
- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.